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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,198	12/21/2001	Merrill A. Biel	22,272-22	9166
32300	7590	07/16/2009	EXAMINER	
BRIGGS AND MORGAN P.A.			SHAY, DAVID M	
2200 IDS CENTER				
80 SOUTH 8TH ST			ART UNIT	PAPER NUMBER
MINNEAPOLIS, MN 55402			3769	
			MAIL DATE	DELIVERY MODE
			07/16/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* MERRILL A. BIEL

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Application No. 10/026,198  
Technology Center: 3700

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Mailed: July 16, 2009

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Before GLORIA HENDERSON, *Review Team Paralegal*  
HENDERSON, *Review Team Paralegal*.

**ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER**

This application was electronically received at the Board of Patent Appeals and Interferences on July 7, 2009. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter(s) requiring attention prior to docketing are identified below.

**INFORMATION DISCLOSURE STATEMENTS**

Information Disclosure Statements (IDS) were filed on March 13, 2003 and June 27, 2003. It is not apparent from the record that the examiner considered the statements submitted or notified applicants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

**EXAMINER'S ANSWER/EVIDENCE RELIED UPON**

The following reference listed under the Evidence Relied Upon section of the Examiner's Answer filed April 1, 2009, is missing from the IFW file.

“Inactivation of Gram-Negative Bacteria by Photosensitized Porphyrins, Nitzan et al., 1992”

**CONCLUSION**

Accordingly, it is ORDERED that the application is being electronically returned to the Examiner:

- 1) for consideration of the Information Disclosure Statements filed March 13, 2003 and June 27, 2003;
- 2) to have the reference listed above scanned into the record; and
- 3) for such further action as may be appropriate.

Application No. 10/026,198

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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